

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LYDIA COLLINS and U.S. POSTAL SERVICE,
POST OFFICE, Buda, TX

*Docket No. 02-2100; Submitted on the Record;
Issued November 25, 2002*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant has established that she sustained an injury in the performance of duty.

On August 23, 2001 appellant, then a 56-year-old rural letter carrier, filed a notice of traumatic injury alleging that on August 15, 2001 she was driving down a rural road when her vehicle hit a pothole and jolted, causing her hernia. She claimed that after her vehicle hit the pothole she felt something "slip out from her vagina." Appellant returned to the office and went to the restroom, her lower back was hurting and she "could feel a bulge beneath." By letter dated September 7, 2001, the Office of Workers' Compensation Programs informed appellant that additional information was necessary to make a determination regarding her claim.

Appellant submitted an August 23, 2001 duty status report (Form CA-17), from Dr. Felix Hull. He diagnosed cysto-rectoceles with chronic pelvic and back pain and stated: "Lifting aggravated anatomic hernias of rectum and bladder which will require surgery."

By decision dated October 15, 2001, the Office denied appellant's claim finding that the medical evidence conflicted with appellant's statement of how the injury occurred.

By report dated October 31, 2001, Dr. Hull stated: "[Appellant] required surgery for symptomatic cysto-rectocele which was caused and aggravated by her job duties of heavy lifting and hard driving."

Appellant requested a review of the written record. By decision dated April 29, 2002, the hearing representative affirmed the October 15, 2001 decision.¹

The Board finds that appellant did not establish that she sustained an injury in the performance of duty.

¹ Appellant requested reconsideration on July 30, 2002.

An employee seeking benefits under the Federal Employees' Compensation Act² has the burden of establishing the essential elements of his or her claim including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.³ These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

To determine whether an employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a "fact of injury" has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.⁵ Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁶

In this case, the Board accepts that the incident occurred as alleged on August 15, 2001. Appellant alleges that the rural road in question contained many potholes and was an extremely bumpy and difficult route. The Board has found that an employee's statement alleging that an injury occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong or persuasive evidence.⁷ Even though Dr. Hull stated in his duty status report that appellant's condition was caused by lifting, he later stated that the condition was caused by heavy lifting and hard driving.

The Board finds, however, that the medical evidence of record is insufficient to establish that the August 15, 2001 incident was the cause of appellant's condition.

The medical evidence required to establish a causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁸

² 5 U.S.C. §§ 8101-8193.

³ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁴ *Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

⁵ *John J. Carlone*, 41 ECAB 354 (1989).

⁶ *Id.* For a definition of the term "injury," see 20 C.F.R. § 10.5(a)(14).

⁷ *Doyle W. Ricketts*, 48 ECAB 167 (1996).

⁸ *Supra*, note 4.

In this case, there is no rationalized medical opinion of record. In the duty status report dated August 23, 2001, Dr. Hull diagnosed cysto-rectoceles and stated that appellant's condition was caused by lifting.⁹ In his second report dated October 31, 2001, he stated that appellant's condition was also caused by hard driving, yet he did not explain how the "hard driving" of appellant's route led to the diagnosed cysto-rectoceles. The Board has found that a conclusory statement without supporting rationale is of little probative value¹⁰ and is insufficient to discharge appellant's burden of proof. Since there is no rationalized medical opinion evidence of record establishing that appellant's condition was caused by the driving incident on August 15, 2001 the Office properly denied the claim.

The April 29, 2002 and October 15, 2001 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, DC
November 25, 2002

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member

⁹ The Board notes that it seems appellant filled in the answers to number five and letter t as the handwriting differs from that of Dr. Hull.

¹⁰ *Marilyn D. Polk*, 44 ECAB 673 (1993).